



सरकारी गजट, उत्तर प्रदेश

उत्तर प्रदेशीय सरकार द्वारा प्रकाशित

असाधारण

लखनऊ, शुक्रवार, दिनांक 06 अगस्त, 2021
15 श्रावण, शक संवत्, 1943

विधान सभा सचिवालय

उत्तर प्रदेश

(संसदीय अनुभाग)

संख्या : 635/वि0स0/संसदीय/65(सं)/2021
दिनांक 06 अगस्त, 2021

अधिसूचना

प्रकीर्ण

श्री राज्यपाल महोदया का निम्नलिखित आदेश, दिनांक 02 अगस्त, 2021 सर्वसाधारण की सूचनार्थ एतद्द्वारा प्रकाशित किया जाता है :-

"ORDER

1. Complainant Shri Ram Pal has filed a complaint dated 14.12.2020 supported by his affidavit against Shri Ranvendra Pratap Singh @ Dhunni Bhaiya, MLA (Hussainganj Constituency, Fatehpur, Uttar Pradesh) presently Minister of State, Food & Civil Supplies, Government of Uttar Pradesh alleging therein that said MLA has become subject to disqualification for being a Member of the Legislative Assembly of Uttar Pradesh under Article 191 of the Constitution of India read with Section 9A of the Representation of People Act, 1951.
2. Complainant states that while being a MLA, Shri Ranvendra Pratap Singh @ Dhunni Bhaiya holds a license of running a cattle market Saripur, Bera, Post Beragdhewa, Tehseel Sadar, District Fatehpur and receiving benefits therefrom. In view of these facts of the matter complainant has requested to disqualify the

said MLA from the membership of Legislative Assembly of Uttar Pradesh. The complaint was forwarded by Shri Arvind Pathak, Joint Secretary, Vidhan Sabha Sachivalaya, Uttar Pradesh to this Secretariat vide its letter dated 12.05.2021 for proceeding under Article 191 and 192 of the Constitution of India.

3. As per the provisions contained in Articles 191 and 192 of the Constitution of India the matter was referred to the Election Commission of India for seeking opinion on the question of alleged disqualification of Shri Ranvendra Pratap Singh "Dhunni Bhaiya", MLA from the membership of the Legislative Assembly of Uttar Pradesh. The Election Commission of India vide its Letter dated 06.07.2021 has sent its opinion dated 05.07.2021 to this Secretariat on 12.07.2021.
4. After examination of the said matter of alleged disqualification, Election Commission of India vide its opinion dated 05.07.2021 opined that Shri Ranvendra Pratap Singh "Dhunni Bhaiya". (242- Hussainganj Assembly constituency, Fatehpur, Uttar Pradesh) has not incurred disqualification under Article 191 of the Constitution of India read with Section 9A of the Representation of the Peoples Act, 1951. Relevant portion of the above mentioned opinion is being reproduced below :

*"(5) The aforesaid provision indicates that the term "appropriate government" for a matter pertaining to disqualification of a Member of Legislative Assembly of a State means the concerned State Government. With regard to the present issue of whether the license to run the 'Pashu Bazaar' by the Respondent can be considered as contract with the appropriate government for the purposes of Section 9A of the Representation of the People Act, 1951, it may be apposite to take note of the observation made by Hon'ble Supreme Court in **Shrikant Vs. Vasantrao & Ors. (2006) 2SCC 682**. The Hon'ble Court in the said case observed as follows :*

16. *The term 'State Government' (as also the term 'Central Government') is used in the various provisions relating to disqualification, in contradistinction from its instrumentalities or local or other authorities. While it is true that the meaning of the terms 'State' and 'State Government' may depend on the context in which they are used, the manner in which the said terms are used in the various provisions relating to disqualification leaves no doubt that 'State' refers to an entity described in the First Schedule to the Constitution of India and 'State Government' refers to the three wings of governance of the 'State' that is Executive, Legislature and Judiciary. The term 'State Government' in Section 9A (read with Section 7 of the Act) should, therefore, be understood in its ordinary and normal sense and not with*

reference to the extended meaning under Article 12 of the Constitution of India."

"20. Therefore, when section 9-A provides that subsistence of a contract with the appropriate government (either for supply of goods or for execution of any work undertaken by that government) will disqualify a candidate for being elected as a member of the Legislative Assembly or Legislative Council, the term 'appropriate Government' refers to the State Government alone, and not to any instrumentality of the State Government.

6. In the present case, it is stated in the RTI reply dated 26.11.2020, received by the Petitioner, that the license provided to the respondent to run the 'Pashu Bazaar' has been provided by the Zila Panchayat ie, a local government body. In view of the definition of the "appropriate government" as provided under Section 7 of the Representation of the People Act, 1951 as well as the aforesaid judicial pronouncement of the Hon'ble Supreme Court, it is stated that the Respondent is not holding a subsisting contract with the "appropriate government" i.e., the Government of Uttar Pradesh, so as to incur disqualification under Section 9A of the Representation of the People Act, 1951.

CONCLUSION

7. In view of the above, this Commission hereby opines that Shri Ranvendra Pratap Singh "Dhunni Bhaiya". Member of Legislative Assembly from 242-Hussainganj Assembly Constituency of Uttar Pradesh, has not incurred disqualification under the provisions of Article 191 of the Constitution of India read with Section 9A of the Representation of the People Act, 1951."

5. The provisions enshrined in Article 192 of the Constitution of India are relevant in this regard and are reproduced as under :

"192. Decision on questions as to disqualifications of members :

(1) If any question arises as to whether a member of a House of the Legislature of a State has become subject to any of the disqualifications mentioned in clause (1) of article 191, the question shall be referred for the decision of the Governor and his decision shall be final.

(2) Before giving any decision on any such question, the Governor shall obtain the opinion of the Election Commission and shall act according to such opinion."

6. A Constitution Bench of the Hon'ble Supreme Court of India, in the case reported in **Brundaban Nayak Vs. Election Commission of India &**

Another, AIR 1965 SC 1892 has ruled that Any citizen can make complaint to the Governor that the such MLA has incurred disqualification under Article 191(1) and when the Governor receives the complaint and forwards the same to the Election Commission, it can be assumed that the Election Commission should proceed to try the complaint before giving its opinion. It would not be correct to say that it is the Governor who should hold the enquiry and then forward to the Election Commission all the material collected in such an enquiry to enable the Election Commission to form its opinion and communicate the same to the Governor. The Governor should forward the complaint to the Election Commission and it is the Election Commission alone which can conduct the enquiry in the complaint. Disqualification referred to in Article 191(1) must be incurred subsequent to the election of the member as follows from Article 190(3)(a) of the Constitution. The decision on the question raised under Article 192(1) has no doubt to be pronounced by the Governor but the Governor must take his decision in accordance with the opinion of the Election Commission. It is the opinion of the Election Commission which in substance is decisive.

7. On the basis of discussions as above and according to the opinion dated 05.07.2021 received from the Election Commission of India under Article 192 of the Constitution of India, I, Anandiben Patel, Governor, Uttar Pradesh finally decide that Shri Ranvendra Pratap Singh "Dhunni Bhaiya", Member of Legislative Assembly (242-Hussainganj Assembly Constituency, Uttar Pradesh), presently Minister of State, Food & Civil Supplies, Government of Uttar Pradesh has not incurred disqualification under Article 191 of the Constitution of India. Above mentioned complaint is hereby disposed accordingly.

आनंदीबेन पटेल,
राज्यपाल, उत्तर प्रदेश।"

भवदीय,
प्रदीप कुमार दुबे,
प्रमुख सचिव।